

Announcement 2009-62

Procedures for Section 509(a)(3) Supporting Organizations to Change Public Charity Classification

This announcement provides procedures that a section 509(a)(3) supporting organization may use to request a change in its public charity classification. This announcement supersedes Announcement 2006-93, 2006-48 I.R.B. 1017.

Background

In the Pension Protection Act of 2006, Pub. L. 109-280 (PPA), Congress enacted a number of changes to the tax law affecting supporting organizations described in section 509(a)(3) of the Internal Revenue Code (Code). In recognition of the fact that organizations classified as supporting organizations under section 509(a)(3) might wish to seek reclassification under sections 509(a)(1) and 170(b)(1)(A)(vi) or section 509(a)(2) of the Code, the Internal Revenue Service (IRS) issued Announcement 2006-93, 2006-48 I.R.B. 1017, to provide procedures under which supporting organizations could request a change in public charity classification for reasons related to the changes made by the PPA. The IRS processed status change requests submitted under Announcement 2006-93 on an expedited basis.

On September 9, 2008, the Treasury Department and the IRS issued temporary and proposed regulations to implement the redesign of the Form 990, Return of Organization Exempt from Income Tax. 73 Fed. Reg. 52,528. The new regulations provide for the elimination of the advance ruling process and a change in the public support computation period from the four years preceding the tested year to a five year-period that includes the tested year. An organization that meets a public support test for the tested year is a public charity for the tested year and the next succeeding year. The new regulations also made changes to the method of accounting for computing public support. This announcement provides procedures consistent with the new regulations for supporting organizations to request changes in public charity classification. In addition, this announcement provides that the IRS will no longer process classification changes on an expedited basis unless the request otherwise meets the expedite criteria set forth in Revenue Procedure 2009-4, 2009-1 I.R.B. 118.

Procedures for Supporting Organizations to Request Change in Public Charity Classification

Organizations that are seeking to change their public charity classification from a section 509(a)(3) supporting organization to a section 509(a)(1) or (a)(2) organization should submit a written request for a determination as to public charity status pursuant to Revenue Procedure 2009-4, 2009-1 I.R.B. 118.

The request for reclassification must include the following:

1. A subject line or other indicator on the first page of the request in bold, underlined, or all capitals font indicating “REQUEST FOR DETERMINATION AS TO PUBLIC CHARITY STATUS.”
2. A statement requesting reclassification from section 509(a)(3) to another public charity classification under sections 509(a)(1) and 170(b)(1)(A)(vi) or section 509(a)(2); and
3. Either
 - a. A copy of the organization’s signed Form 990, Parts I through XI, or Form 990-EZ, Parts I through VI, with the completed Schedule A, Public Charity Status and Public Support, as filed with the Internal Revenue Service for the taxable year immediately preceding the taxable year in which the request is made; or
 - b. The organization’s support information for the past five completed tax years, using the organization’s overall method of accounting used to complete the Form 990 or Form 990-EZ for such years. This information may be provided to the Internal Revenue Service on a completed Schedule A, Public Charity Status and Public Support, to the Form 990 or Form 990-EZ (2008 or later year, as appropriate).

Like all requests for a determination, the request must be signed under penalties of perjury by the organization’s officer, director, trustee, or other authorized official. The complete reclassification request should be mailed to:

IRS-TEGE
Attn: Correspondence Unit, Room 4024
P.O. Box 2508
Cincinnati, OH 45201

If an organization previously submitted a request for reclassification pursuant to Announcement 2006-93 before the issuance of this announcement, that request will still be processed. Organizations will receive a determination letter in response to their request for reclassification indicating whether a change in public charity classification has been made. There is no user fee for this determination letter.

This announcement supersedes Announcement 2006-93, which is revoked.

For further information, contact Melinda Williams at (202) 283-9467 (not a toll-free call).